

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

FRANKIE J. OWEN,

Plaintiff,

v.

No. 19-cv-1222 KG/SMV

CURRY COUNTY DETENTION CENTER,

Defendant.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on the pro se handwritten letter filed by Plaintiff Frankie J. Owen on December 30, 2019. [Doc. 1]. The Court determines that the filing is deficient because it is not in proper form, it has not been signed under penalty of perjury by Plaintiff, and Plaintiff has neither paid the \$400 filing fee nor been granted leave to proceed without paying the filing fee. Plaintiff must cure these deficiencies within 30 days if he wishes to pursue his claims.

Plaintiff's filing consists of a two-page letter alleging "[e]xtremely terrible and hazardous living conditions in Delta Pod." [Doc. 1] at 1. Plaintiff's filing appears to assert prison-conditions civil rights claims under 42 U.S.C. § 1983. [Doc. 1] at 1. A civil rights complaint under § 1983 is the exclusive vehicle for vindication of substantive rights under the Constitution. *See Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (claims against state actors must be brought under § 1983). The filing is not in proper form to assert civil rights claims and is not signed under penalty of perjury as required by Fed. R. Civ. P. 11(a).

In addition, under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the federal filing fee from the Plaintiff unless it authorizes Plaintiff to proceed without prepayment of

the fee. Plaintiff has not paid the \$400 filing fee or submitted an application to proceed under § 1915.

Plaintiff must cure the deficiencies if he wishes to pursue his claims. The deficiencies must be cured within 30 days of entry of this Order. Plaintiff must include the civil action number **19-cv-1222 KG/SMV** on all papers he files in this proceeding. If Plaintiff fails to cure the deficiencies within 30 days, the Court may dismiss this proceeding without further notice.

IT IS ORDERED that, **no later than February 3, 2020**, Plaintiff Frankie J. Owen cure the deficiencies by (1) paying the \$400 filing fee or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs (Long Form) and (2) filing a prisoner civil rights complaint in proper form.

IT IS FURTHER ORDERED that the Clerk of the Court mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915 (Long Form), with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge